

AMENDED IN ASSEMBLY APRIL 28, 2003

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1669

Introduced by Assembly Member Chu

February 21, 2003

An act to amend Section 2960 of, and to add Section 2093 to, the Business and Professions Code, to amend Section 1031 of the Government Code, and to add Section 832.05 to the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1669, as amended, Chu. Peace officers: psychological evaluations.

(1) Existing law requires that public officers or employees declared by law to be peace officers meet certain minimum standards, including being found free from any emotional or mental condition that might adversely affect the exercise of the powers of a peace officer. Existing law requires that the person's emotional and mental condition be evaluated by a licensed physician and surgeon or by a licensed psychologist who has a doctoral degree in psychology and at least 5 years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.

This bill would instead require that the evaluation be done by a licensed ~~psychiatrist~~ *physician and surgeon who is board certified in psychiatry by the American Board of Psychiatry and Neurology* or by a licensed psychologist who has a doctoral degree in psychology and

at least 5 years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, with at least 3 of these years accrued postdoctorate, and ~~who meets~~ *would require the physician and surgeon or psychologist to meet* certain other educational and training ~~requirements~~ *standards*. This bill would require a department or agency employing peace officers to utilize a ~~psychiatrist~~ *physician and surgeon or a psychologist* meeting these requirements for a peace officer recruit's ~~mental and~~ emotional *and mental* screening evaluation or for the evaluation of a peace officer to determine fitness for duty.

(2) Existing law regulates the professions of peace officers, ~~psychiatrists~~ *physicians and surgeons*, and psychologists and makes a violation of the provisions regulating psychologists is a misdemeanor.

This bill would prohibit a ~~psychiatrist~~ *physician and surgeon or a psychologist* from performing evaluations of a peace officer applicant's emotional and mental condition or performing an evaluation of a peace officer's fitness for duty unless he or she *is licensed, has met specified educational and training requirements, and, if a psychologist, he or she* has a doctoral degree in psychology and at least 5 years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, at least three of these years accrued postdoctorate ~~and has met certain other educational and training requirements~~.

Because this bill would create prohibitions applicable to psychologists, the violation of which would be a crime, it would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(4) This bill would become operative on an unspecified date.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 2093 is added to the Business and Professions Code, to read:

2093. A licensee shall meet the requirements set forth in ~~paragraph (2) of~~ subdivision (f) of Section 1031 of the Government Code prior to performing either:

(a) An evaluation of a peace officer applicant's emotional and mental condition.

(b) An evaluation of a peace officer's fitness for duty.

SEC. 2. Section 2960 of the Business and Professions Code is amended to read:

2960. The board may refuse to issue a registration or license, may issue a registration or license with terms and conditions, or may suspend or revoke the registration or license of a registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, all of the following:

(a) Conviction of a crime substantially related to the qualifications, functions, or duties of a psychologist or psychological assistant.

(b) Use of a controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, a dangerous drug, or an alcoholic beverage to an extent or in a manner dangerous to himself or herself, another person, or the public or to an extent that the use impairs his or her ability to perform the work of a psychologist with safety to the public.

(c) Fraudulently or neglectfully misrepresenting the type or status of license or registration actually held.

(d) Impersonating another person holding a psychology license or allowing another person to use his or her license or registration.

(e) Using fraud or deception in applying for a license or registration or in passing the examination provided for in this chapter.

(f) Paying, offering to pay, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of clients.

- 1 (g) Violating Section 17500.
2 (h) Willful, unauthorized communication of information
3 received in professional confidence.
4 (i) Violating a rule of professional conduct promulgated by the
5 board and set forth in regulations duly adopted under this chapter.
6 (j) Being grossly negligent in the practice of his or her
7 profession.
8 (k) Violating a provision of this chapter or regulations duly
9 adopted thereunder.
10 (l) Aiding or abetting a person to engage in the unlawful
11 practice of psychology.
12 (m) The suspension, revocation, or imposition of probationary
13 conditions by another state or country of a license or certificate to
14 practice psychology or as a psychological assistant issued by that
15 state or country to a person also holding a license or registration
16 issued under this chapter, if the act for which the disciplinary
17 action was taken constitutes a violation of this section.
18 (n) The commission of a dishonest, corrupt, or fraudulent act.
19 (o) An act of sexual abuse or sexual relations with a patient or
20 former patient within two years following termination of therapy,
21 or sexual misconduct that is substantially related to the
22 qualifications, functions, or duties of a psychologist,
23 psychological assistant, or registered psychologist.
24 (p) Functioning outside of his or her particular field or fields of
25 competence as established by his or her education, training, and
26 experience.
27 ~~(q) Performing evaluations of a peace officer applicant's~~
28 ~~emotional and mental condition or performing an evaluation of a~~
29 ~~peace officer's fitness for duty without meeting the requirements~~
30 ~~set forth in paragraph (2) of subdivision (f) of Section 1031 of the~~
31 ~~Government Code.~~
32 ~~(r)~~
33 (q) Willful failure to submit, on behalf of an applicant for
34 licensure, verification of supervised experience to the board.
35 ~~(s)~~
36 (r) Repeated acts of negligence.
37 (s) *Performing evaluations of a peace officer applicant's*
38 *emotional and mental condition or performing an evaluation of a*
39 *peace officer's fitness for duty without meeting the requirements*

1 *for conducting an emotional and mental evaluation set forth in*
2 *subdivision (f) of Section 1031 of the Government Code.*

3 SEC. 3. Section 1031 of the Government Code is amended to
4 read:

5 1031. Each class of public officers or employees declared by
6 law to be peace officers shall meet all of the following minimum
7 standards:

8 (a) Be a citizen of the United States or a permanent resident
9 alien who is eligible for and has applied for citizenship, except as
10 provided in Section 2267 of the Vehicle Code.

11 (b) Be at least 18 years of age.

12 (c) Be fingerprinted for purposes of search of local, state, and
13 national fingerprint files to disclose a criminal record.

14 (d) Be of good moral character, as determined by a thorough
15 background investigation.

16 (e) Be a high school graduate, pass the General Education
17 Development Test indicating high school graduation level, pass
18 the California High School Proficiency Examination, or have
19 attained a two-year or four-year degree from an accredited college
20 or university. The high school shall be either a United States public
21 school meeting the high school standards set by the state in which
22 it is located, an accredited United States Department of Defense
23 high school, or an accredited nonpublic high school. Any
24 accreditation required by this paragraph shall be from an
25 accrediting association recognized by the Secretary of the United
26 States Department of Education. This subdivision shall not apply
27 to a public officer or employee who was employed, prior to the
28 effective date of the amendment of this section made at the 1971
29 Regular Session of the Legislature, in any position declared by law
30 prior to the effective date of that amendment to be peace officer
31 positions.

32 (f) Be found to be free from any physical, emotional, or mental
33 condition that might adversely affect the exercise of the powers of
34 a peace officer.

35 (1) Physical condition shall be evaluated by a licensed
36 physician and surgeon.

37 (2) Emotional and mental condition shall be evaluated by a
38 ~~licensed psychiatrist or psychologist who meets all of the~~
39 ~~following requirements:~~

1 ~~(A) Has~~ either (A) a licensed physician and surgeon who is
2 board certified in psychiatry by the American Board of Psychiatry
3 and Neurology, or (B) a licensed psychologist who has a doctoral
4 degree in psychology and at least five years of postgraduate
5 experience in the diagnosis and treatment of emotional and mental
6 disorders, with at least three of these years accrued postdoctorate.

7 ~~(B) Has~~ The physician and surgeon or psychologist shall also
8 have met any applicable education and training standards adopted
9 by the California Commission on Peace Officer Standards and
10 Training.

11 This section shall not be construed to preclude the adoption of
12 additional or higher standards, including age.

13 SEC. 4. Section 832.05 is added to the Business and
14 Professions Code, to read:

15 832.05. Each department or agency in this state that employs
16 peace officers shall utilize a person meeting the requirements ~~for~~
17 ~~an evaluating psychiatrist or psychologist that are set forth in~~
18 ~~paragraph (2) of~~ set forth in subdivision (f) of Section 1031 of the
19 Government Code, *applicable to emotional and mental*
20 *examinations*, for any ~~mental and emotional~~ emotional and mental
21 evaluation done in the course of the department or agency's
22 screening of peace officer recruits or the evaluation of peace
23 officers to determine their fitness for duty.

24 SEC. 5. This act shall become operative on ____.

25 SEC. 6. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution for
27 certain costs that may be incurred by a local agency or school
28 district because in that regard this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.

34 However, notwithstanding Section 17610 of the Government
35 Code, if the Commission on State Mandates determines that this
36 act contains other costs mandated by the state, reimbursement to
37 local agencies and school districts for those costs shall be made
38 pursuant to Part 7 (commencing with Section 17500) of Division
39 4 of Title 2 of the Government Code. If the statewide cost of the
40 claim for reimbursement does not exceed one million dollars

1 (\$1,000,000), reimbursement shall be made from the State
2 Mandates Claims Fund.

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